

FCC MAIL SECTION

Federal Communications Commission

DA 00-1573

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Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of)
)
Amendment of Section 73.202(b),) MM Docket No. 99-222
Table of Allotments,) RM-9602
FM Broadcast Stations.) RM-9789
(Fountain Green and)
Levan, Utah)¹)

REPORT AND ORDER
(Proceeding Terminated)

Adopted: July 5, 2000

Released: July 14, 2000

By the Chief, Allocations Branch:

1. In response to a Petition for Rule Making filed by Mountain West Broadcasting ("Mountain West"), the Commission has before it for consideration the Notice of Proposed Rule Making, 14 FCC Rcd 9365 (1999), requesting the allotment of Channel 244A at Fountain Green, Utah. Mountain West Broadcasting filed comments supporting an allotment at Fountain Green.² Micro Communications, Inc. ("Micro") filed a counterproposal³ and reply comments.⁴

2. As stated in the Notice, Mountain West proposed the allotment of Channel 244A at Fountain Green, Utah, as a first local service for the community. In response to the Notice Mountain West requests that alternate Channel 260A be allotted to Fountain Green. Mountain West states that Channel 260A can be allotted to the community without a site restriction and that numerous transmitter sites are available that will provide coverage to the entire community. Mountain West further states that allotment of an FM channel to Fountain Green will offer the residents an important

¹ The community of Levan, Utah, has been added to the caption.

² Although Mountain West continues to support an allotment at Fountain Green, it has withdrawn its interest in Channel 244A and requests that alternate Channel 260A be allotted to Fountain Green. Mountain West provided a statement indicating that it has not received any consideration in exchange for the withdrawal of its interest in Channel 244A.

³ The counterproposal filed by Micro was put on public notice on December 27, 1999, Report No. 2375 (RM-9789).

⁴ In reply comments filed on January 11, 2000, Micro proposed that the most recently suggested channels, 244 and 260, be exchanged in order to maximize the public interest benefits of both proposals. Micro requested the allotment of Channel 260C1 at Levan, Utah, and the allotment of Channel 244C1 at Fountain Green, Utah. Micro's proposal will not be considered as it constitutes a late-filed counterproposal suggesting a higher class allotment for Fountain Green than was proposed in the Notice.

outlet for local self-expression and improved access to health and safety information, such as advance warning of severe weather conditions.

3. Micro submitted a counterproposal requesting the substitution of Channel 244C1 for Channel 256A at Levan, Utah, and modification of the construction permit for Station KBLN to specify operation on Channel 244C1. Micro points out that it since it intends to use its existing transmitter site, there will be no loss of service. Further, the upgrade from Class A to C1 will provide a significant increase in area and population served by Station KBLN. Micro requests that Channel 256A be allotted to Fountain Green, Utah, in lieu of Channel 244A as proposed in the Notice. Micro states that by allotting an alternate channel to Fountain Green, expanded service can be provided at Levan and a first local service at Fountain Green.

4. Conflicting proposals, such as have been filed in this proceeding, are generally considered under the guidelines set forth in Revision of FM Assignment and Policies and Procedures, 90 FCC Rcd 2d (1982).⁵ However, in this instance, since an alternate channel is available, there is no need to compare the two proposals. Therefore, after consideration of the information filed in this proceeding, we believe the public interest would be served by the allotment of FM channels at Fountain Green and Levan, Utah, providing expanded service at Levan and a first local service at Fountain Green. Channel 260A can be allotted to Fountain Green, Utah, in compliance with the Commission's spacing requirements without a site restriction.⁶ Channel 244C1 can be allotted to Levan, Utah, in compliance with the spacing requirements at Micro's requested site.⁷ In accordance with Section 1.420(g) of the Commission's Rules, we shall also modify the construction permit for Station KBLN, Levan, Utah, to specify operation on Channel 244C1 in lieu of Channel 256A since there were no expressions of interest in the use of Channel 244C1 at Levan.

5. Accordingly, pursuant to the authority contained in Sections 4(i), 5(c)(1), 303(g) and (r) and 307(b) of the Communications Act of 1934, as amended, and Sections 0.61, 0.204(b) and 0.283 of the Commission's Rules, IT IS ORDERED, That effective August 28, 2000, the FM Table of Allotments, Section 73.202(b) of the Commission's Rules, IS AMENDED for the communities listed below, as follows:

⁵ The priorities are (1) first full-time aural service; (2) second full-time aural service; (3) first local service; and (4) other public interest matters. [Co-equal weight given to priorities (2) and (3).]

⁶ The coordinates for Channel 260A at Fountain Green are 39-37-42 and 111-38-24. Although Micro proposed the allotment of Channel 256A in lieu of Channel 244A at Fountain Green in its counterproposal, we are allotting Channel 260A in response to comments filed by Mountain West supporting the allotment of Channel 260A at Fountain Green.

⁷ The coordinates for Channel 244C1 at Levan are 39-33-32 and 111-46-55.

Community	Channel Number
Fountain Green, Utah	260A
Levan, Utah	244C1

6. IT IS FURTHER ORDERED, That pursuant to Section 316(a) of the Communications Act of 1934, as amended, the construction permit of Micro Communications, Inc. for Station KBLN, Levan, Utah, IS MODIFIED to specify operation on Channel 244C1 in lieu of Channel 256A, subject to the following conditions:

- (a) Nothing contained herein shall be construed as authorizing any change in permit BPH-971120MD except for the channel as specified above. Any changes, except those specified, require prior authorization pursuant to an application for construction permit. (FCC Form 301).
- (b) Program tests may be conducted in accordance with the provisions of Section 73.1620 of the Rules, PROVIDED the transmission facilities comply in all respects with permit BPH-971120MD, except for the channel as specified above, and a license application (Form 302) is filed within 10 days of commencement of program tests.

7. A filing window for Channel 260A at Fountain Green, Utah, will not be opened at this time. Instead, the issue of opening a filing window for this channel will be addressed by the Commission in a subsequent order.

8. Pursuant to Commission Rule Section 1.1104(1)(k) and (3)(m), any party seeking a change in community of license of an FM or television allotment or an upgrade of an existing FM allotment, if the request is granted, must submit a rule making fee when filing its application to implement the change in community of license and/or upgrade. As a result of this proceeding, Micro Communications, Inc., permittee of Station KBLN, is required to submit a rule making fee in addition to the fee required for the applications to effectuate the upgrade at Levan, Utah.

9. IT IS FURTHER ORDERED, That this proceeding IS TERMINATED.

10. For further information concerning this proceeding, contact Kathleen Scheuerle, Mass Media Bureau, (202) 418-2180. Questions related to the application filing process for Channel 260A, Fountain Green, Utah, and Channel 244C1, Levan, Utah, should be addressed to the Audio Services Division, Mass Media Bureau, (202) 418-2700.

FEDERAL COMMUNICATIONS COMMISSION

John A. Karousos
Chief, Allocations Branch
Policy and Rules Division
Mass Media Bureau